

Remarks

Applicants thank the Examiner for the careful review and consideration of the application.

Claim 43 has been amended to make that claim dependent on claim 20. New claims 46-49 are dependent claims similar to dependent claims 21 and 26, except that they depend on either claim 8 or 18. Support for those claims may be found, *e.g.*, in the specification at p. 19, lines 16-21. Thus, claims 1-39 and claims 43-49 are pending in the application.

The Examiner identified four patentably distinct species and is requiring applicant to elect a single species for prosecution. Those four species are set forth below.

Species A – inserts comprising superimposed substrate sheets. *See Figs. 1 and 2.*

Species B – inserts comprising affixed substrate sheets. *See Figs. 6 and 7.*

Species C – horizontally folded inserts. *See Figs. 12 and 13.*

Species D – vertically folded inserts. *See Figs. 17 and 18.*

The restriction requirement is traversed. “If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” M.P.E.P. § 803. Here it is believed that there is no significant additional burden if all claims are searched as compared to any set of elected claims. Reconsideration is requested.

It is noted that the office action recites various generic reasons for why a search of multiple species might constitute a serious burden, but makes no attempt to apply any possible reason to the subject claims with any particularity. The generic reasons are connected by “and/or,” thus rendering the basis for the restriction unclear. None of the

possible generic reasons are applied in any manner to the situation at hand. For example, separate classification is cited as a possible reason, but there is no identification of separate classifications for the identified species.

On the other hand, it is difficult to imagine how the examiner would be unable to obtain an accurate view of the prior art by an electronic search based on key words such as “fortune cookies,” “advertising,” and “inserts.” Moreover, examination of claims 8, 18, and 46-49, which correspond to the provisionally elected species C, also will require a search of the features characterizing species A, B, and D. Thus, there will be no incremental burden on the Examiner if all claims are searched and examined.

Notwithstanding, applicant hereby provisionally elects to prosecute the claims of Species C. The claims corresponding to Species C are claims 1-3, 8, 18, 20-25, 30-32, and 43-49. It also is noted, contrary to the Examiner’s observation, that claims 1-3 and 30-32 are generic to all identified species, and claims 20 and 43-45 are generic to elected species C and non-elected species D.

Conclusion

For the reasons set forth above, it is believed that the restriction requirement should be withdrawn. Prompt and favorable reconsideration, therefore, is earnestly solicited.

The Examiner is invited to contact the undersigned attorney at (832) 656-3853 with any questions, comments or suggestions relating to the referenced patent application.

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Respectfully submitted,

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